IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO.13843 of 2005

Between:

Kathika Venkateswarlu S/o. Venkata Subbaiah, 68 years,
R/o.Lal Bahadur Nagar, Mangalagiri Town, Guntur District.

...PETITIONER

AND

1. The District Collector, Guntur, Guntur District.
2. The Mandal Revenue Officer, Mangalagiri Mandal, Guntur District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction, more particularly a writ of Mandamus, declaring the initiation of the proceedings for cancellation the house site patta granted to the petitioner in respect of an extent of 0.05 cents of land situated in Lal Bahadur Nagar, Survey No.228 of Mangalagiri as illegal, arbitrary and without jurisdiction and consequently set aside all proceedings in relation thereto including the proceedings in RC.No.362/04/C, dt.31.5.2005 issued by the 2nd respondent.

Counsel for the Petitioner: MR.P.ROY REDDY

Counsel for the Respondents: GP FOR REVENUE

The Court at the admission stage made the following:

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO.13843 of 2005

ORDER:

This Writ Petition is filed by the petitioner seeking declaration of initiation of the proceedings for cancellation of the house site patta granted to him in respect of 0.05 cents of land situated at Lal Bahadur Nagar in Survey No.228 of Mangalagiri Town as illegal and arbitrary and consequential direction to set aside all proceedings in relation thereto including the proceedings of the second respondent in Rc.No.362/04/C, dated 31.05.2005.

The learned counsel for the petitioner submitted that he was in possession and enjoyment of the land mentioned in the above Survey No.228 since February, 1970 and a house site patta was granted in his favour in respect of the above survey number on 12.08.1975. The second respondent issued a show cause notice vide proceedings in Rc.No.362/04/C, dated 31.05.2005 directing the petitioner to submit written explanation to show cause why his house patta granted on 12.08.1975 not be cancelled as he is working as a teacher and he is not entitled to the assignment

of Government land, on his complaint that one Dasari Bhaskara Rao encroached his land. The present Writ Petition is filed against the said show cause notice.

The learned counsel for the petitioner contended that the petitioner is in peaceful possession and enjoyment of the said land for the last thirty years and as per the Board Standing Orders 15 Para 18 (1), initiation of proceedings after 30 years of assignment is illegal. The second respondent should have initiated the proceedings for cancellation of the assignment within three years as provided in Para 18. In the similar circumstances, the learned single Judge of this Court held in ***P.Anasuyamma v. The Commissioner of Land Revenue*** that the initiation of proceedings for cancellation of the assignment beyond the limitation period of prescribed three years is illegal. Therefore, beyond the expiry of three years of assignment of house site patta, the authorities have no power to cancel the assignment. Following the judgment cited *supra*, I deem it appropriate to allow the Writ Petition at the admission stage.

The Writ Petition is accordingly allowed with a direction to the respondents to render justice when the petitioner approaches them complaining encroachment of his land by the third party. It is unfortunate that they have proceeded against the petitioner instead of proceeding against the third party who encroached his land. The show cause notice dated 31.05.2005 is set aside. No costs.

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(ELIPE DHARMA RAO, J)

29th June 2005

RRB

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this Wednesday, the Twenty Ninth day of June Two thousand and five.

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The District Collector, Guntur, Guntur District.
2. The Mandal Revenue Officer, Mangalagiri Mandal, Guntur District.
3. Two CCs to GP for Revenue, High Court Buildings, Hyderabad (OUT).
4. Two CD copies.